

**UNITED STATES
PATENT AND TRADEMARK OFFICE**

uspto

Patent Public Advisory Committee Quarterly Meeting

Patent Trial and Appeal Board Update

James Donald Smith

Chief Administrative Patent Judge, PTAB

Scott R. Boalick

Acting Deputy Chief Administrative Patent Judge, PTAB

May 14, 2015

UNITED STATES
PATENT AND TRADEMARK OFFICE



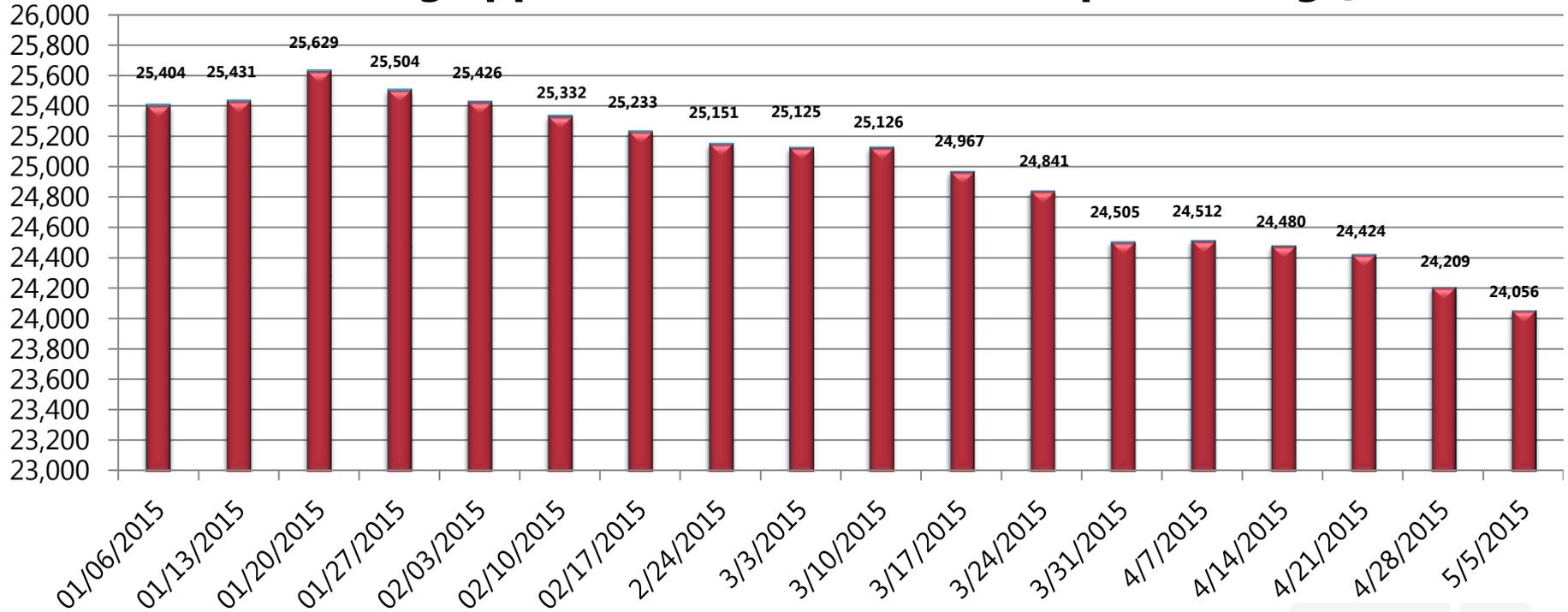
Appeals Statistics

PTAB Receipts and Dispositions

Period: 04/05/2015 thru 05/05/2015

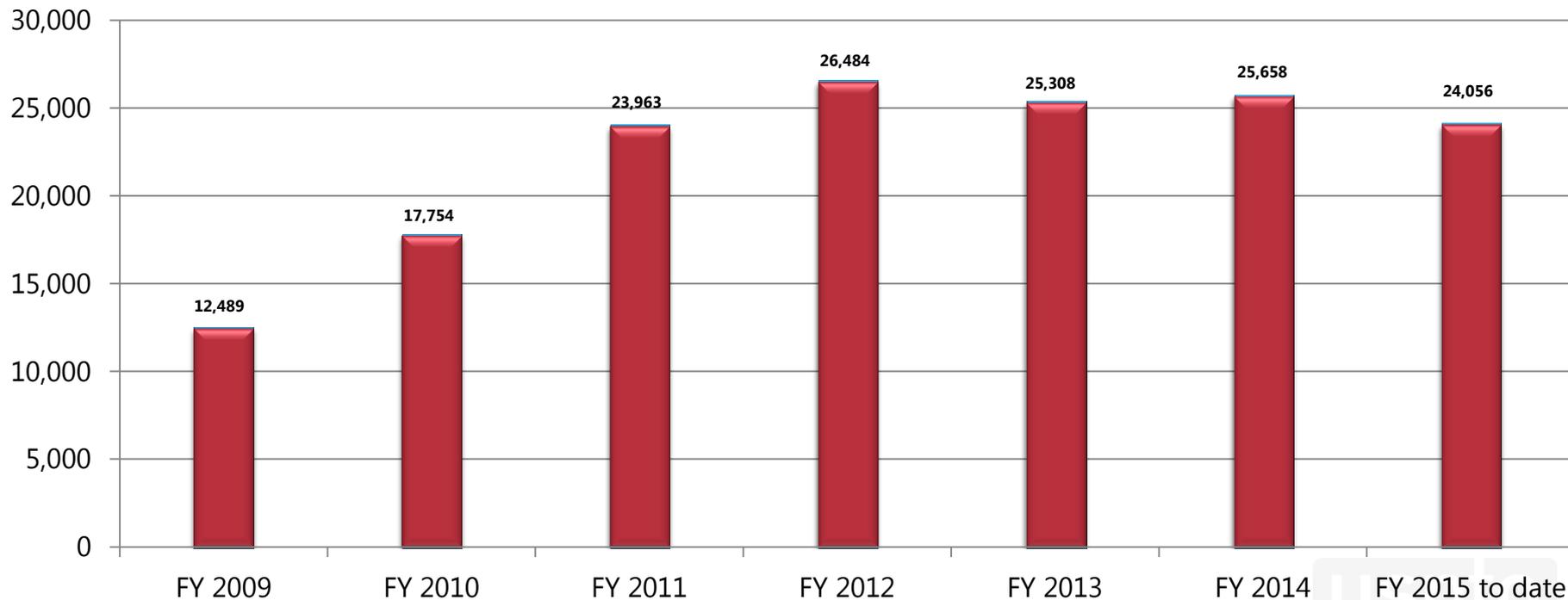
Discipline	# Cases Received	# Cases Disposed	Difference (Disposed minus Received)
Biotech	48	43	-5
Business Methods	32	107	75
Chemical	96	110	14
Contested Cases	13	17	4
Design	3	0	-3
Electrical	266	549	283
Mechanical	179	237	58
Totals	637	1063	426

PTAB Inventory – Pending Ex Parte Appeals (excluding appeals from reexamination proceedings)



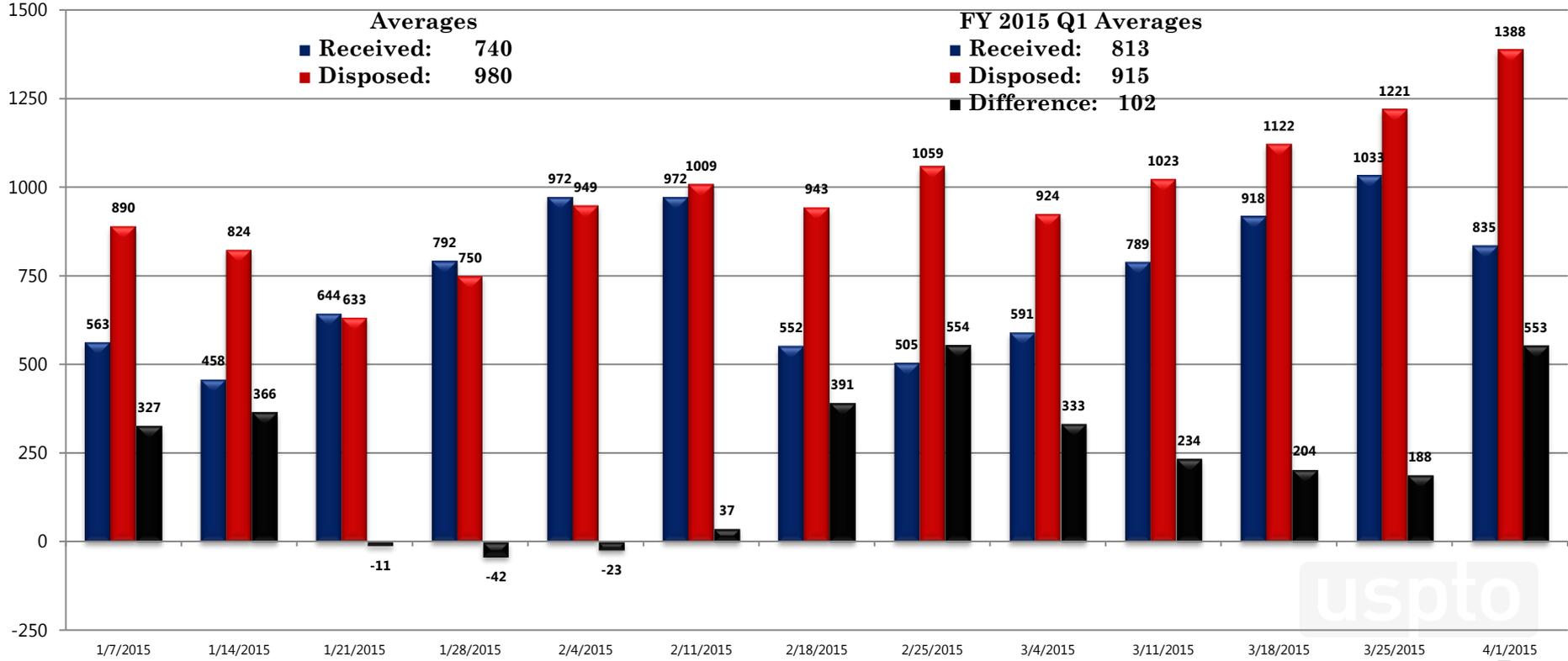
PTAB Inventory – Pending Ex Parte Appeals

(excluding appeals from reexamination proceedings)



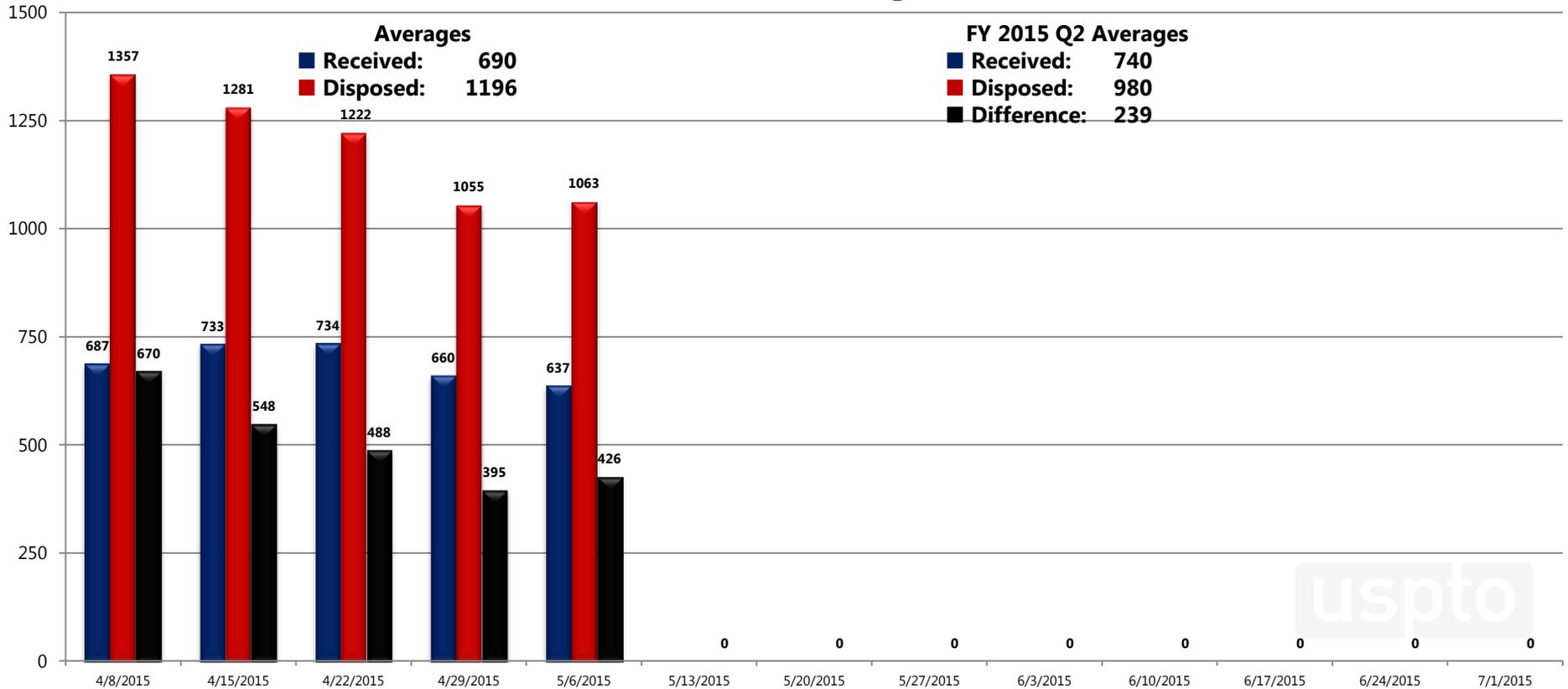
Receipts & Dispositions Summary Report

FY 2015 2nd Quarter

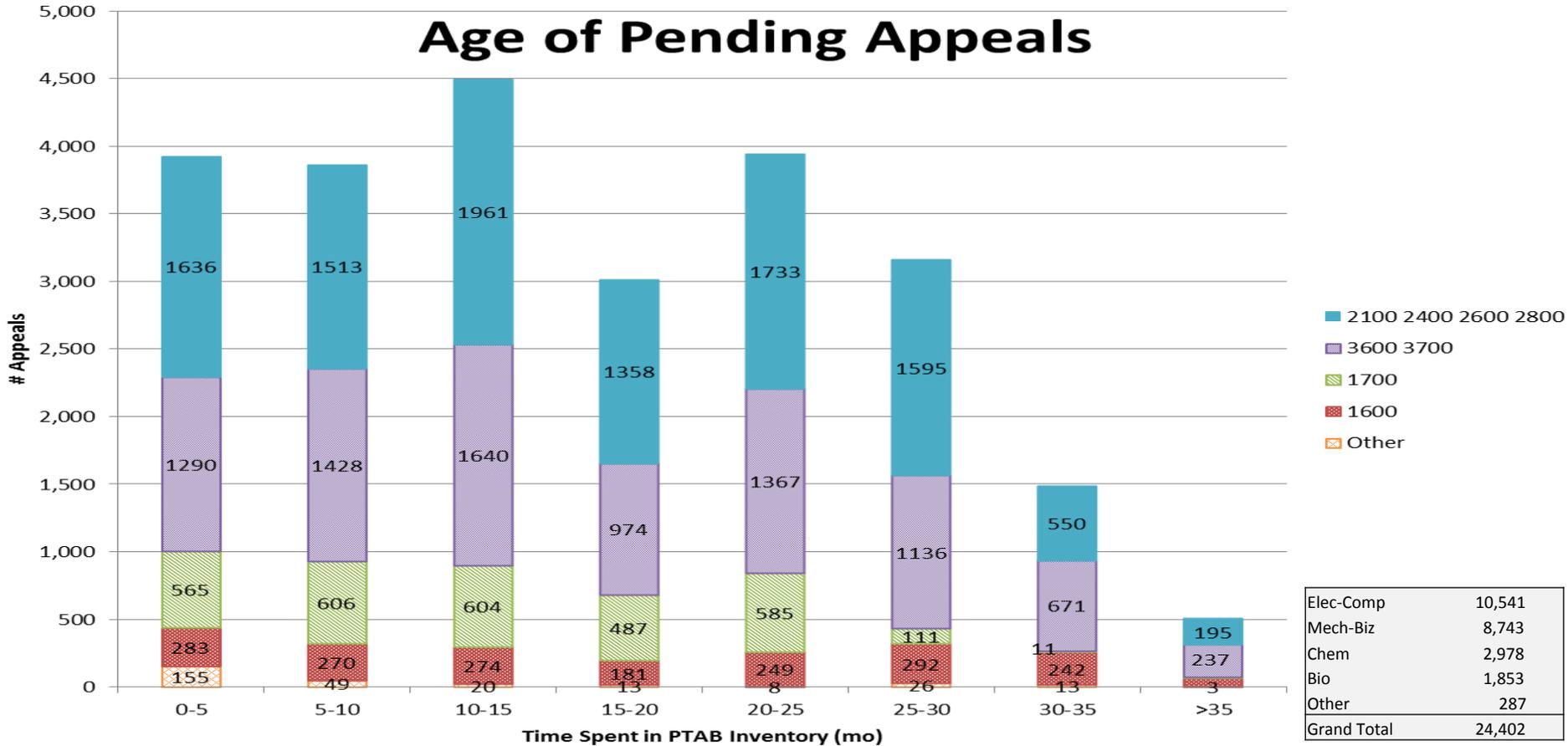


Receipts & Dispositions Summary Report

FY-2015 3rd Quarter



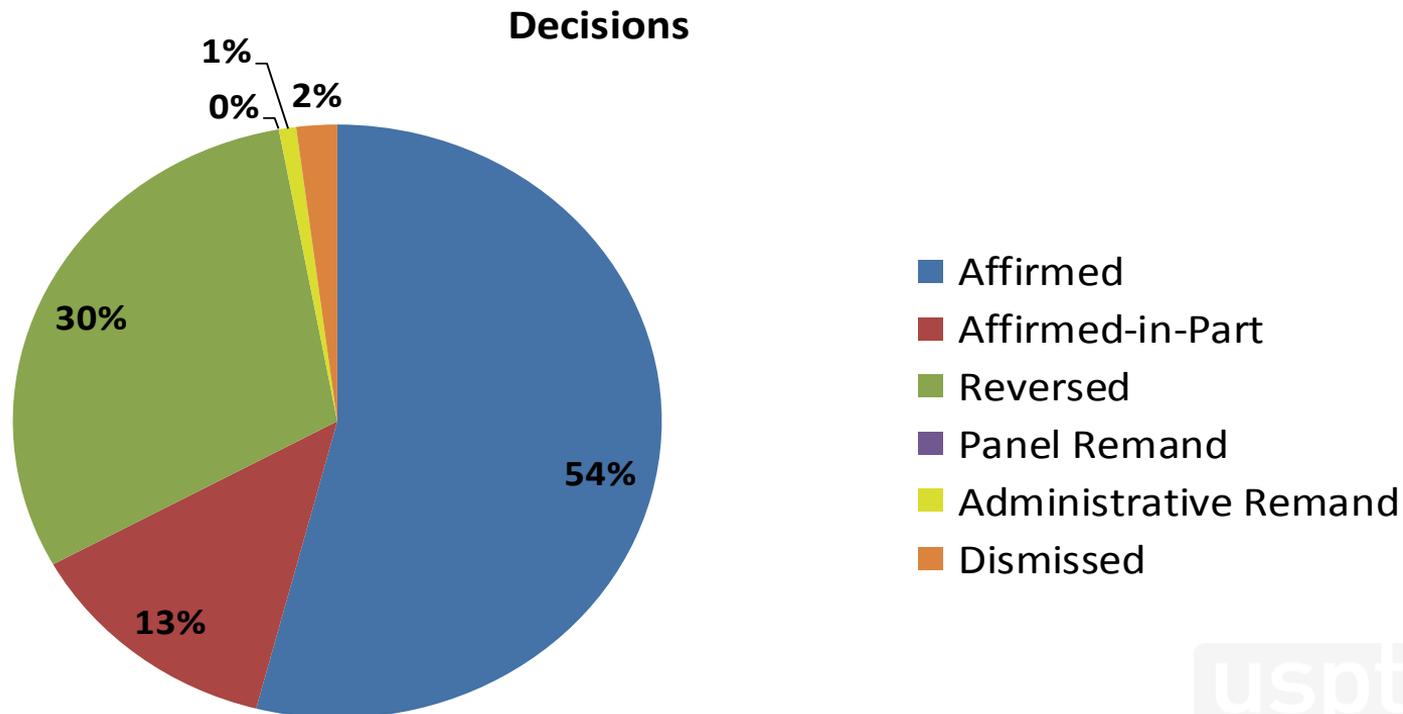
Age of Pending Appeals



Elec-Comp	10,541
Mech-Biz	8,743
Chem	2,978
Bio	1,853
Other	287
Grand Total	24,402

Sources: Weekly OPIM PALM Status 124 & 132 Reports
(4/29/15)

Decisions by Type: FY2014



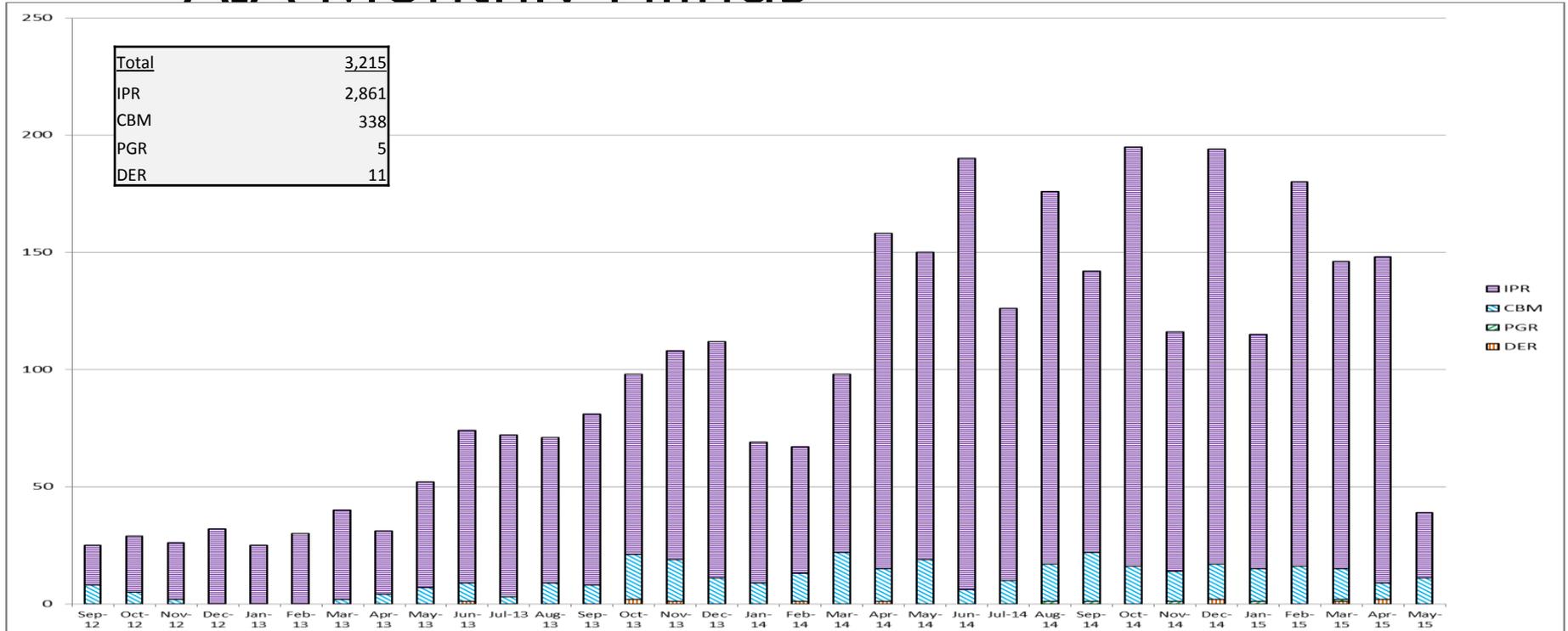
AIA Statistics

Comparison by Technology Center of FY 2014 AIA Filings v. Patent Grants

TC	AIA Filings	Patent Grants
1600	90	24,669
1700	107	31,863
2100	188	24,422
2400	114	30,983
2600	223	40,445
2800	289	70,281
2900	3	22,452
3600	226	38,160
3700	156	42,931
Other	98	176
Total	1,494	326,382

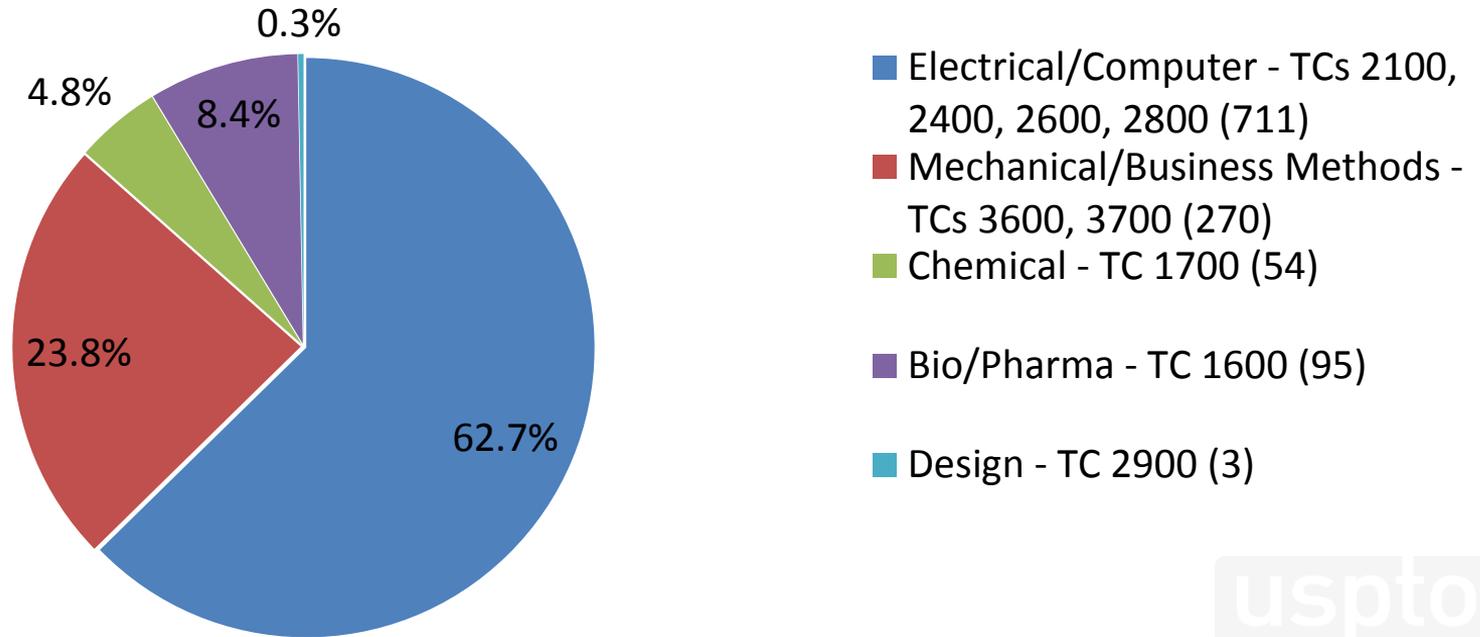
AIA Progress (as of May 7, 2015)

- AIA Monthly Filings



AIA Progress (for FY15 through May 7, 2015)

- AIA Petition Technology Breakdown



AIA Progress (as of May 7, 2015)

- Cumulative Patent Owner Preliminary Responses

	Filed	Waived
IPR	1,835	401
CBM	243	26
PGR	2	1

AIA Progress (as of May 7, 2015)

- AIA Petition Dispositions

		Trials Instituted	Joinders	Percent Instituted	Denials	Total No. of Decisions on Institution
IPR	FY13	167	10 ⁺	87%	26	203
	FY14	557	15 ⁺	75%	193	765
	FY15	490	96 ⁺	72%	225	811
CBM	FY13	14	0	82%	3	17
	FY14	91	1 ⁺	75%	30	122
	FY15	53	-	69%	24	77
DER	FY14	0	0	0%	3	3

AIA Progress (as of May 7, 2015)

- AIA Final Dispositions

		Settlements	Adverse Judgments	Final Written Decisions
IPR	FY13	38	2	0
	FY14	210	39	130
	FY15	263	40	217
CBM	FY13	3	0	1
	FY14	27	3	13
	FY15	30	3	32
PGR	FY15	2	-	-

Comparison: 2014 vs. 2015

Year	Petitions Received		Institutions	
	IPRs	CBMs	IPRs	CBMs
Last Year (as of 3-20-14)	957	139	390	45
This Year (as of 3-19 -15)	2,636	315	1,126	137

AIA Trial Rulemaking Update

AIA Trial Feedback

- Nationwide listening tour conducted in April and May 2014
- Federal Register Request for Comments published in June 2014
 - <http://www.gpo.gov/fdsys/pkg/FR-2014-06-27/pdf/2014-15171.pdf>
- Comment period closed October 16, 2014
- Comments have been published on the Patent Trial and Appeal Board page of the USPTO website
 - http://www.uspto.gov/ip/boards/bpai/public_comments_ptab_aia_trial_rfc.jsp
- A wide range of feedback was received
 - Non-rule specific comments
 - Comments directed to the seventeen questions posed for public input
- Quick-fixes for AIA Rules are to be implemented immediately, as of March 27, 2015
 - http://www.uspto.gov/blog/director/entry/ptab_s_quick_fixes_for

Topics for Comment

Claim construction	Discovery
Amendment practice	Oral hearing
Patent owner preliminary response	Extension of 1 year statutory period
Obviousness	Multiple proceedings
Real party in interest	General catch-all

AIA Trial Rulemaking

- In response to stakeholder requests, the Office will move forward with two rule packages:
 1. A first package, which will go into effect upon publication, encompasses less difficult “quick-fixes” based upon both stakeholder comments and internal PTAB suggestions. Changes in response to stakeholder comments go into effect immediately, via scheduling orders. Plan to issue in Q3 of FY 2015.
 2. A second package, issued as proposed rules, will address more difficult changes to the rules, and also will include any changes to the Trial Practice Guide. Plan to issue in Q3 or Q4 of FY 2015.
- The first and second packages will issue together as a single final rule package.

AIA Trial Rulemaking

Quick-Fixes for Immediate Implementation

- Increased the number of pages for a motion to amend from 15 to 25 pages, with a commensurate increase in the number of pages for the opposition, in addition to allowing the Patent Owner to list the amended claims in an appendix.
- Increased the number of pages for a Petitioner's reply brief from 15 to 25 pages.

Boardside Chats

Boardside Chats

2015

Date	Time	Topic	Speakers
Tuesday, February 3	Noon to 1 pm Eastern Time	PTAB Statistics and Key Decisions	Chief Judge James Donald Smith
Tuesday, April 7		Do's and Don'ts for Ex Parte Appeals	Panel of Administrative Patent Judges
Tuesday, June 2		Discovery in AIA Trials	Panel of Practitioners and Administrative Patent Judges
Tuesday, August 4		AIA Rulemaking and Guidance Changes	Lead Judge Susan Mitchell
Tuesday, October 6		Best Practices before the PTAB	Panel of Administrative Patent Judges

- "Boardside Chat" is a lunchtime webinar series to be held bi-monthly throughout 2015. The purpose of the Chats is to update you on current Board activities and statistics as well as to regularly receive your feedback about the same.
- All Chats are free and open to all. Also, all Chats will include time for attendee questions and comment.
- Materials from past events are on the PTAB website.



Board Staffing

- APJ Staffing
- Patent Attorney Program
- Support Staff Hiring

APJ Staffing

USPTO Locations

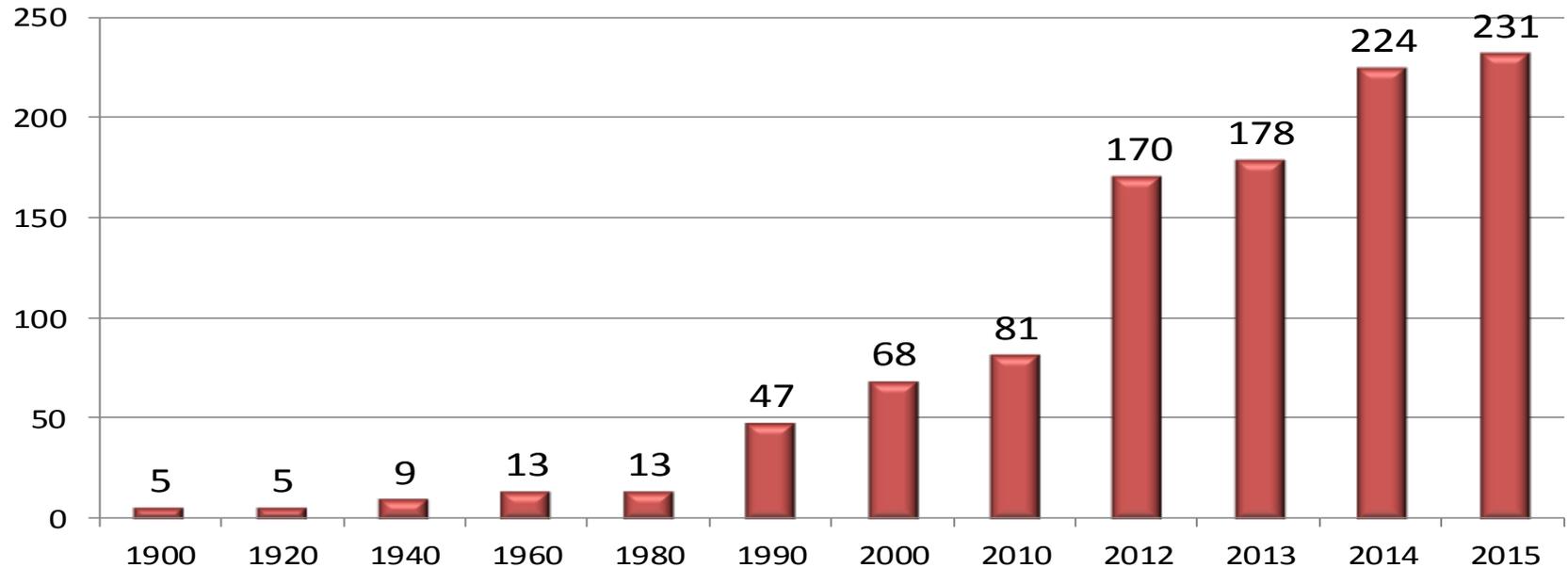


*Alexandria, Va. count includes TEAPP and hoteling judges.

Judge Members of the Board

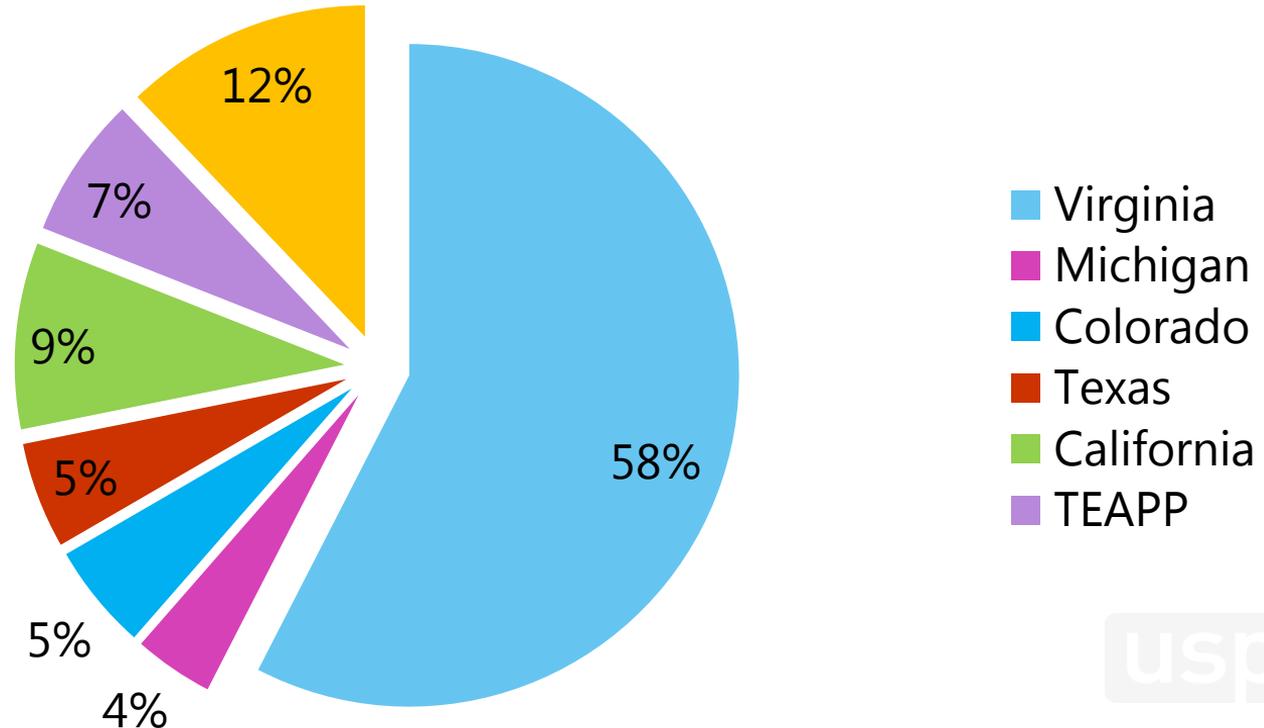
As of April 20, 2015

Judges



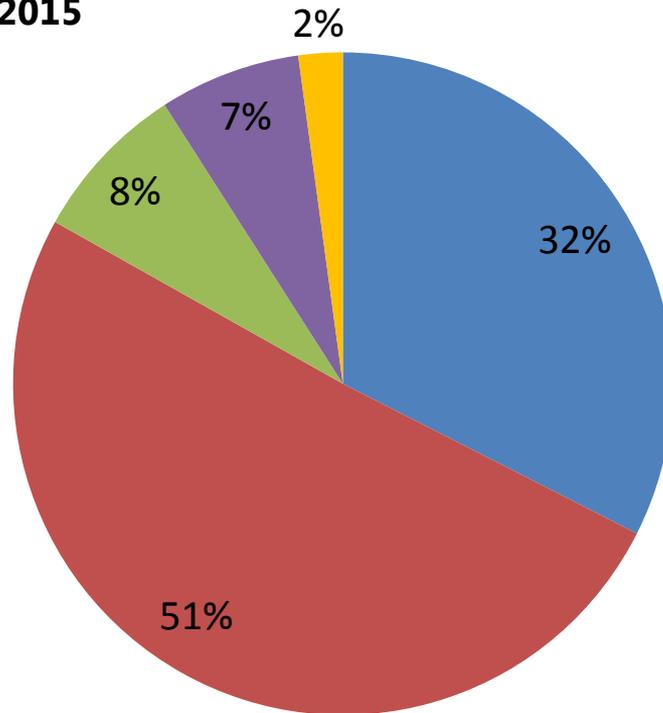
PTAB Office Location Demographics

as of April 20, 2015



Allocation of Judges

as of April 20, 2015



- AIA
- Ex parte Appeals
- Inter Partes Reexamination Appeals
- Management
- Interferences

APJ Paneling

PTAB Paneling Judges – General Principles

- Consider Judge Characteristics
 - Recusal List
 - Technology expertise
 - Tenure at PTAB and amount of experience in the various jurisdictions of PTAB
 - Current workload
- Consider Panel Make-up
 - Related cases are assigned to the same panel
 - A panel should consist of a mix of experience levels
 - For a heard case, at least one judge should be able to appear in person in the hearing room

Patent Attorney Program

Patent Attorney Program

Goals of patent attorney program:

- Assist judges with cases to increase overall Board output capacity
- Serve as a pipeline for future judges

Hired 4 Supervisory Patent Attorneys

Hired 19+ Patent Attorneys, most of whom will on-board in Q3

During FY 2015, PTAB is planning to hire 20 additional patent attorneys to start in Q1 of FY 2016

FY 2015 PTAB Support Staff Hiring

Support Staff Positions

- Completed FY 2015 PTAB hires:
 - Acquisition Program Specialist (GS-13)
 - Management Information Specialist (GS-14) – 3 positions
 - Management & Program Analyst (GS-13)
 - Administrative Officer (GS-15)
 - Administrative Management Specialist GS – 7/9/11/12 (4 positions + 2 promotions)
 - Paralegals GS-9/11 (5 positions)
- Pending FY 2015 PTAB hires:
 - Chief Clerk of the Board (GS-14)
 - Management & Program Analyst (GS-13)
 - Outreach Public Affairs Specialist (GS-13)
 - Confidential Assistant to the Chief Judge (GS-11)
 - Paralegals (GS-11) - 2 positions
 - Support Services Assistants (GS-7)

Questions and Comments

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